



# County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA  
Chief Executive Officer

March 6, 2014

To: Supervisor Don Knabe, Chairman  
Supervisor Gloria Molina  
Supervisor Mark Ridley-Thomas  
Supervisor Zev Yaroslavsky  
Supervisor Michael D. Antonovich

From: William T Fujioka  
Chief Executive Officer

A handwritten signature in black ink, appearing to be "W. T. Fujioka", is written over the printed name of the Chief Executive Officer.

Board of Supervisors  
GLORIA MOLINA  
First District

MARK RIDLEY-THOMAS  
Second District

ZEV YAROSLAVSKY  
Third District

DON KNABE  
Fourth District

MICHAEL D. ANTONOVICH  
Fifth District

## SACRAMENTO UPDATE - SINGLE-USE PLASTIC BAGS LEGISLATION

### Executive Summary

This memorandum contains the following:

- **Pursuit of County Position to Support and Amend SB 270 (Padilla).** This measure would phase out single-use plastic bags in California grocery stores, convenience stores, liquor stores, and pharmacies. Therefore, unless otherwise directed by the Board, consistent with existing policy to support legislation which reduces the environmental impacts of single-use carryout bags and decreases the financial burden on local governments to address those impacts, and because SB 270 would not pre-empt stricter bag ordinances that local jurisdictions have enacted, **the Sacramento advocates will support SB 270 and request amendments to: 1) clarify the definitions of convenience stores to ensure that they would be required to comply with the requirements of the bill; 2) require that reusable bags have a higher carrying capacity than currently proposed, consistent with the County's Ordinance; 3) strengthen the requirements for recycled paper bags; 4) clarify the difference between compostable bags and compostable plastic bags; and 5) address concerns regarding eligibility for and allocations from the Recycling Market Development Zone Program.**

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**Pursuit of County Position on Legislation**

**SB 270 (Padilla)**, which as amended on February 6, 2014, would phase out single-use plastic bags in California grocery stores, convenience stores, liquor stores, and pharmacies. Specifically, this bill would:

- By July 1, 2015, prohibit stores that have a specified amount of sales in dollars or retail floor space from providing a single-use carryout bag to a customer, and from selling or distributing a recycled paper bag at the point-of-sale unless the store makes that bag available for purchase for not less than ten cents (\$0.10);
- On and after July 1, 2016, impose these prohibitions and requirements on convenience food stores, foodmarts, and entities engaged in the sale of a limited line of goods, or goods intended to be consumed off premises, and that hold a specified license with regard to alcoholic beverages;
- Allow a retail establishment to voluntarily comply with these requirements, if the retail establishment notifies the California Department of Resources Recycling and Recovery (DRRR) and pays a registration fee established by the DRRR;
- Require the operator of a store that has a specified amount of sales in dollars or retail floor space, in addition to complying with existing requirements, to establish an at-store plastic bag recycling program;
- Require stores selling a reusable grocery bag to a customer at the point-of-sale to meet specified requirements with regard to the bag's durability, material, labeling, heavy metal content, and, with regard to reusable grocery bags made from plastic;
- Prohibit a producer of reusable grocery bags made from specified plastics from selling or distributing those bags on and after January 1, 2016, unless the producer is certified to be incorporating clean post-consumer recycled materials by the DRRR;
- Authorize a supplier of post-consumer recycled material or a producer of those bags to apply to the DRRR for certification as a supplier of material;
- Authorize the DRRR to suspend or revoke a certification and require the DRRR to publish on its website a list of certified reusable grocery bag producers and suppliers, and reusable grocery bags that comply with the requirements of the bill;

- Require the DRRR to establish a certification fee schedule to cover the department's costs to implement these requirements, which a reusable grocery bag producer or supplier applying for certification would be required to pay;
- Authorize the DRRR to assess administrative civil penalties for violations of these requirements and to deposit these penalties into the Reusable Bag Account, for expenditure by the department, upon appropriation by the Legislature, to implement those requirements;
- Allow a city, county, or city and county, or the State to impose civil penalties for a violation of the bill's requirements, except as specified;
- Prohibit a local public agency from enforcing or implementing an ordinance, resolution, regulation, or rule adopted on or after September 1, 2014, relating to those bags, against a store unless expressly authorized;
- Allow a local public agency that has adopted such an ordinance, resolution, regulation, or rule prior to September 1, 2014, to continue to enforce and implement that ordinance, resolution, regulation, or rule, and preempt any amendments except to set a price for a recycled paper bag, compostable bag, or reusable grocery bag; and
- Appropriate \$2.0 million from the Recycling Market Development Revolving Loan Subaccount in the Integrated Waste Management Account for purposes of providing loans and grants for the creation and retention of jobs and economic activity in California for the manufacture and recycling of plastic reusable grocery bags that use recycled content.

SB 270 is substantially similar to **County-supported SB 405 (Padilla) of 2013**, which as amended on May 24, 2013, would have: 1) phased out single-use plastic bags in California grocery stores, convenience stores, liquor stores, and pharmacies by prohibiting a store from providing a single-use carryout bag to a customer at the point-of-sale as of January 1, 2015; 2) allowed a city, county or other local public agency that has adopted an ordinance, resolution, regulation, or rule relating to reusable grocery bags, single-use carryout bags, or recycled paper bags before September 1, 2013 to continue to enforce and implement that ordinance; and 3) prohibited on and after January 1, 2014, a city, county, or other local public agency to enforce or otherwise implement an ordinance enacted after September 1, 2013 relating to reusable grocery bags, single-use carryout bags, or recycled paper bags.

SB 405 died in the Senate Inactive File on February 6, 2014.

### **Existing Law**

Existing law requires an operator of a store, as defined in State statute as either a supermarket (a full-line, self-service retail store with gross annual sales of \$2.0 million or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items) or a pharmacy (a store that has over 10,000 square feet of retail space and has a pharmacy licensed pursuant to State statute), to establish an at-store recycling program that provides an opportunity for a customer of the store to return clean plastic carryout bags to that store. The law also requires the operator of a store to make reusable bags available to customers, for purchase. The law defines "reusable bag" as a bag made of cloth or other machine washable fabric that has handles or a durable plastic bag with handles that is at least 2.25 mils thick and is specifically designed and manufactured for multiple reuse. This law will sunset on January 1, 2020.

In addition, the California Integrated Waste Management Act of 1989 creates the Recycling Market Development Revolving Loan Subaccount in the Integrated Waste Management Account and continuously appropriates the funds deposited in the subaccount to the department for making loans for the purposes of the Recycling Market Development Revolving Loan Program. Existing law makes the provisions regarding the loan program, the creation of the subaccount, and expenditures therefrom inoperative on July 1, 2021, and repeals them as of January 1, 2022.

### **Analysis**

The Department of Public Works (DPW) reports that each year, approximately 19 billion plastic carryout bags are consumed in California, the equivalent of 1,600 bags per household per year. Less than 5 percent of those bags are recycled, with the remainder disposed in landfills or ending up littered on beaches, waterways, parks, and roads. Due to their lightweight nature, single-use plastic carryout bags are disproportionately more likely to end up as litter. Plastic bag litter makes up as much as 25 percent of the litter stream and significantly impact communities and the environment. According to DPW, in the County alone, local and State governments spend tens of millions of dollars each year on litter prevention, stormwater infrastructure cleanup, and enforcement activities, including single-use bag litter. In the last few years, more than 25 local governments throughout the State including the County of Los Angeles and City of Los Angeles, have passed ordinances to ban the distribution of single-use plastic bags by markets and other stores to their customers.

The Department of Public Works indicates that, as efforts to reduce the usage of single-use plastic and paper bags, through enactment of State law and local ordinances, have increased recent years, there have been numerous manufacturing companies that have

sought to actively market their bags as “reusable.” However, some of these bags are substandard, failing to meet usage expectations, and in some cases containing toxic levels of heavy metals.

The Department of Public Works reports that, if enacted, SB 270 would further assist local governments reducing the amount of plastic carryout bags that are disposed or littered, thereby reducing blight and other environmental impacts associated with such litter and improving the quality of life of County residents. Additionally, the bill would help alleviate unsightly litter throughout the region as well as the costs associated with the removal of it, and mitigate the costs of compliance with the Federal Clean Water Act.

**As currently drafted, SB 270 would not preempt local ordinances that were enacted before September 1, 2014, but it would not allow amendments to those ordinances except in regard to the amount that a store shall charge with regard to a recycled paper bag, compostable bag, or reusable grocery bag.**

The Department of Public Works indicates that SB 270 is similar to dozens of single-use plastic bag bans that are currently in place throughout the State, including the Single-Use Bag Reduction Ordinance adopted by the County in November 2010, and measures adopted by several cities within the County. However, the reusable bag standard that is prescribed in SB 270 would allow for lower quality reusable bags when compared to enacted local ordinances, including that of the County. For example, SB 270 would require that reusable bags be able to carry two full one-gallon milk jugs, which is approximately 16.12 pounds, a minimum of 125 times. The County’s ordinance requires reusable bags have the capability to carry no less than 22 pounds 125 times for a distance of 175 feet.

The Department of Public Works also notes that the definitions of convenience stores, as currently drafted, imply that convenience stores which do not engage in the sale of alcohol would not be compelled to abide by the bag requirements of SB 270.

Finally, the Department of Public Works reports that, under the current project eligibility criteria for the Recycling Market Development Revolving Loan Program, certain projects - **including single-use plastic bags** - are ineligible for loans from the program. In addition, the program has been oversubscribed in recent years for other recycling initiatives. DPW indicates that both of these issues should be addressed. In regards to mitigating the impacts of appropriating funds for upgrades to manufacturing facilities, the author may want to instead set up grant criteria that sets up a preference or priority for those types of projects, thereby ensuring that funds are not tied up in the event that companies do not apply for funds.

### **Potential County Impact**

The Department of Public Works estimates that passage of SB 270 would save the County \$1.0 million annually in cleanup and prevention efforts. These savings would ideally be shifted to provide enhanced services to the County's residents in the form of enhanced stormwater program implementation, flood protection, and public education.

Under the County of Los Angeles Single Use Plastic Bag Ban ordinance, nearly half of all paper bags provided to customers were provided free of charge for customers participating in low income assistance programs such as the California Special Supplemental Food Program for Women, Infants and Children (WIC) and the Supplemental Food Program. The monies are retained by store operators and owners and may be used only for any of the following purposes: 1) costs in compliance with the ordinance; 2) actual costs of providing recyclable paper carryout bags; or 3) costs associated with a store's educational materials or educational campaign encouraging the use of reusable bags (if any). However, SB 270 does not direct how store owners and operators are to appropriate the monies collected from charging customers for recycled paper bags or reusable bags.

The Department of Public Works reports that, if enacted, SB 270 would phase out the use of single-use plastic carryout bags at supermarkets, pharmacies, and other food-related retailers, throughout the State, thereby covering any cities within the County's jurisdiction that currently do not have single-use plastic bag ordinances. SB 270 would save resources that those cities would have to expend in preparing an ordinance, completing an environmental document, and other costs associated with local ordinances, including potential litigation costs from challengers seeking to invalidate the local ordinances.

### **Conclusion**

This office and the Department of Public Works support SB 270. Support of this measure is consistent with existing Board-approved policy to support legislation which reduces the environmental impacts of single-use carryout bags and decreases the financial burden on local governments to address those impacts, and would not preempt stricter bag ordinances that local jurisdictions have enacted. It is also consistent with the Board's previous support of SB 405 of 2013. **Therefore, unless otherwise directed by the Board, the Sacramento advocates will support SB 270 and request amendments to: 1) clarify the definitions of convenience stores to ensure that they would be required to comply with the requirements of the bill; 2) require that reusable bags have a higher carrying capacity than currently proposed, consistent with the County's Ordinance; 3) strengthen the requirements for**

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**recycled paper bags; 4) clarify the difference between compostable bags and compostable plastic bags; and 5) address concerns regarding eligibility for and allocations from the Recycling Market Development.**

Support for and opposition to SB 270 is unknown at this time.

SB 270 has been referred to the Assembly Rules Committee. A hearing date has not been set.

We will continue to keep you informed.

WTF:RA  
MR:AO:ma

c: All Department Heads  
Legislative Strategist  
Local 721  
Coalition of County Unions  
California Contract Cities Association  
Independent Cities Association  
League of California Cities  
City Managers Associations  
Buddy Program Participants